

AMENDED IN ASSEMBLY JANUARY 23, 2012

AMENDED IN ASSEMBLY MAY 3, 2011

AMENDED IN ASSEMBLY APRIL 6, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 171

Introduced by Assembly Member Beall

(Coauthors: Assembly Members Ammiano, Blumenfield, Brownley, Carter, Chesbro, Eng, Huffman, Mitchell, Swanson, Wieckowski, Williams, and Yamada)

January 20, 2011

An act to add Section ~~1374.73~~ 1374.745 to the Health and Safety Code, and to add Section ~~10144.51~~ 10144.53 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 171, as amended, Beall. ~~Autism spectrum disorder. Pervasive developmental disorder or autism.~~

(1) Existing law provides for licensing and regulation of health care service plans by the Department of Managed Health Care. A willful violation of these provisions is a crime. Existing law provides for ~~licensing and~~ the regulation of health insurers by the Insurance Commissioner. Existing law requires health care service plan contracts and health insurance policies to provide benefits for specified conditions, ~~including certain mental health conditions.~~ *coverage for the diagnosis and treatment of severe mental illnesses, including pervasive developmental disorder or autism, under the same terms and conditions applied to other medical conditions, as specified. Commencing July 1, 2012, and until July 1, 2014, existing law requires health care service*

plan contracts and health insurance policies to provide coverage for behavioral health treatment, as defined, for pervasive developmental disorder or autism.

This bill would require health care service plan contracts and health insurance policies to provide coverage for the screening, diagnosis, and treatment, *other than behavioral health treatment, of autism spectrum disorders pervasive developmental disorder or autism.* The bill would, however, provide that no benefits are required to be provided by a health benefit plan offered through the California Health Benefit Exchange ~~that exceed the essential health benefits required that exceed the essential health benefits that will be required~~ under specified federal law. The bill would prohibit coverage from being denied for specified reasons *health care service plans and health insurers from denying, terminating, or refusing to renew coverage solely because the individual is diagnosed with or has received treatment for pervasive developmental disorder or autism.* Because the bill would change the definition of a crime with respect to health care service plans, it would thereby impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section ~~1374.73~~ 1374.745 is added to the Health
- 2 and Safety Code, to read:
- 3 ~~1374.73.~~
- 4 1374.745. (a) Every health care service plan contract issued,
- 5 amended, or renewed on or after January 1, ~~2012~~ 2013, that
- 6 provides hospital, medical, or surgical coverage shall provide
- 7 coverage for the screening, diagnosis, and treatment of ~~autism~~
- 8 ~~spectrum disorders.~~ *pervasive developmental disorder or autism.*
- 9 (b) A health care service plan shall not terminate coverage, or
- 10 refuse to deliver, execute, issue, amend, adjust, or renew coverage,
- 11 to an enrollee solely because the individual is diagnosed with, or

1 has received treatment for, ~~an autism spectrum disorder~~ *pervasive*
2 *developmental disorder or autism*.

3 (c) Coverage required to be provided under this section shall
4 extend to all medically necessary services and shall not be subject
5 to any limits regarding age, number of visits, or dollar amounts.
6 Coverage required to be provided under this section shall not be
7 subject to provisions relating to lifetime maximums, deductibles,
8 copayments, or coinsurance or other terms and conditions that are
9 less favorable to an enrollee than lifetime maximums, deductibles,
10 copayments, or coinsurance or other terms and conditions that
11 apply to physical illness generally under the plan contract.

12 (d) Coverage required to be provided under this section is a
13 health care service and a covered health care benefit for purposes
14 of this chapter. Coverage shall not be denied *on the basis of the*
15 *location of delivery of the treatment or on the basis that the*
16 *treatment is habilitative, nonrestorative, educational, academic, or*
17 *custodial in nature*.

18 (e) A health care service plan may request, no more than once
19 annually, a review of treatment provided to an enrollee for ~~autism~~
20 ~~spectrum disorders~~ *pervasive developmental disorder or autism*.
21 The cost of obtaining the review shall be borne by the plan. This
22 subdivision does not apply to inpatient services.

23 (f) A health care service plan shall establish and maintain an
24 adequate network of ~~qualified autism~~ service providers with
25 appropriate training and experience in ~~autism spectrum disorders~~
26 *pervasive developmental disorder or autism* to ensure that enrollees
27 have a choice of providers, and have timely access, continuity of
28 care, and ready referral to all services required to be provided by
29 this section consistent with Sections 1367 and 1367.03 and the
30 regulations adopted pursuant thereto.

31 (g) (1) This section shall not be construed as reducing any
32 obligation to provide services to an enrollee under an individualized
33 family service plan, an individualized program plan, a prevention
34 program plan, an individualized education program, or an
35 individualized service plan.

36 (2) This section shall not be construed as limiting *or excluding*
37 *benefits that are otherwise available to an enrollee under a health*
38 *care service plan. plan, including, but not limited to, benefits that*
39 *are required to be covered pursuant to Sections 1374.72 and*
40 *1374.73.*

1 (3) *This section shall not be construed to mean that the services*
2 *required to be covered pursuant to this section are not required*
3 *to be covered under other provisions of this chapter.*

4 ~~(3)~~

5 (4) This section shall not be construed as affecting litigation
6 that is pending on January 1, 2012.

7 ~~(h) On and after January 1, 2014, to the extent that this section~~
8 ~~requires health benefits to be provided that exceed the essential~~
9 ~~health benefits required to be provided under Section 1302(b) of~~
10 ~~the federal Patient Protection and Affordable Care Act (Public~~
11 ~~Law 111-148), as amended by the federal Health Care and~~
12 ~~Education Reconciliation Act of 2010 (Public Law 111-152) by~~
13 ~~qualified health plans offering those benefits in the California~~
14 ~~Health Benefit Exchange pursuant to Title 22 (commencing with~~
15 ~~Section 100500) of the Government Code, the specific benefits~~
16 ~~that exceed the federally required essential health benefits are not~~
17 ~~required to be provided when offered by a health care service plan~~
18 ~~contract through the Exchange. However, those specific benefits~~
19 ~~are required to be provided if offered by a health care service plan~~
20 ~~contract outside of the Exchange.~~

21 ~~(h) Notwithstanding subdivision (a), on and after January 1,~~
22 ~~2014, this section does not require any benefits to be provided that~~
23 ~~exceed the essential health benefits that all health plans will be~~
24 ~~required by federal regulations to provide under Section 1302(b)~~
25 ~~of the federal Patient Protection and Affordable Care Act (Public~~
26 ~~Law 111-148), as amended by the federal Health Care and~~
27 ~~Education Reconciliation Act of 2010 (Public Law 111-152).~~

28 (i) As used in this section, the following terms shall have the
29 following meanings:

30 ~~(1) "Autism spectrum disorder" means a neurobiological~~
31 ~~condition that includes autistic disorder, Asperger's disorder, Rett's~~
32 ~~disorder, childhood disintegrative disorder, and pervasive~~
33 ~~developmental disorder not otherwise specified.~~

34 ~~(2) "Behavioral health treatment" means professional services~~
35 ~~and treatment programs, including behavioral intervention therapy,~~
36 ~~applied behavioral analysis, and other intensive behavioral~~
37 ~~programs, that have demonstrated efficacy to develop, maintain,~~
38 ~~or restore, to the maximum extent practicable, the functioning or~~
39 ~~quality of life of an individual and that have been demonstrated~~

1 to treat the core symptoms associated with autism spectrum
2 disorder.

3 (3) “Behavioral intervention therapy” means the design,
4 implementation, and evaluation of environmental modifications,
5 using behavioral stimuli and consequences, to produce socially
6 significant improvement in behaviors, including the use of direct
7 observation, measurement, and functional analyses of the
8 relationship between environment and behavior.

9 (4)

10 (1) “Diagnosis of autism spectrum disorders” *pervasive*
11 *developmental disorder or autism*” means medically necessary
12 assessment, evaluations, or tests to diagnose whether an individual
13 has one of the autism spectrum disorders *pervasive developmental*
14 *disorder or autism*.

15 (5) “Evidence-based research” means research that applies
16 rigorous, systematic, and objective procedures to obtain valid
17 knowledge relevant to autism spectrum disorders.

18 (2) “*Pervasive developmental disorder or autism*” shall have
19 the same meaning and interpretation as used in Section 1374.72.

20 (6)

21 (3) “Pharmacy care” means medications prescribed by a licensed
22 physician and surgeon or other appropriately licensed or certified
23 provider and any health-related services deemed medically
24 necessary to determine the need or effectiveness of the medications.

25 (7)

26 (4) “Psychiatric care” means direct or consultative psychiatric
27 services provided by a psychiatrist or any other appropriately
28 licensed or certified provider *licensed in the state in which he or*
29 *she practices*.

30 (8)

31 (5) “Psychological care” means direct or consultative
32 psychological services provided by a psychologist or any other
33 appropriately licensed or certified provider *licensed in the state in*
34 *which he or she practices*.

35 (9) “Qualified autism service provider” shall include any
36 nationally or state licensed or certified person, entity, or group that
37 designs, supervises, or provides treatment of autism spectrum
38 disorders and the unlicensed personnel supervised by the licensed
39 or certified person, entity, or group, provided the services are
40 within the experience and scope of practice of the licensed or

certified person, entity, or group. “Qualified autism service provider” shall also include any service provider that is vendorized by a regional center to provide those same services for autism spectrum disorders under Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code and the unlicensed personnel supervised by that provider, or a State Department of Education nonpublic, nonsectarian agency as defined in Section 56035 of the Education Code approved to provide those same services for autism spectrum disorders and the unlicensed personnel supervised by that agency. A qualified autism service provider shall ensure criminal background screening and fingerprinting, and adequate training and supervision of all personnel utilized to implement services. Any national license or certification recognized by this section shall be accredited by the National Commission for Certifying Agencies (NCCA).

(10)

(6) “Therapeutic care” means services provided by a licensed or certified speech therapists *therapist, an occupational therapists therapist, or a physical therapists or any other appropriately licensed or certified provider. therapist.*

(11)

(7) “Treatment for autism spectrum disorders” *pervasive developmental disorder or autism* means all of the following care, including necessary equipment, *that develops, maintains, or restores to the maximum extent practicable the functioning or quality of life of an individual with pervasive developmental disorder or autism and is* prescribed or ordered for an individual diagnosed with *one of the autism spectrum disorders pervasive developmental disorder or autism* by a licensed physician and surgeon or a licensed psychologist *or any other appropriately licensed or certified provider* who determines the care to be medically necessary:

(A) Behavioral health treatment.

(B)

(A) Pharmacy care, *if the plan contract includes coverage for prescription drugs.*

(C)

(B) Psychiatric care.

(D)

1 (C) Psychological care.

2 ~~(E)~~

3 (D) Therapeutic care.

4 ~~(F) Any care for individuals with autism spectrum disorders~~
5 ~~that is demonstrated, based upon best practices or evidence-based~~
6 ~~research, to be medically necessary.~~

7 (8) *“Treatment for pervasive developmental disorder or autism”*
8 *does not include behavioral health treatment, as defined in Section*
9 *1374.73.*

10 (j) This section, with the exception of subdivision (b), shall not
11 apply to dental-only or vision-only health care service plan
12 contracts.

13 SEC. 2. Section ~~10144.51~~ 10144.53 is added to the Insurance
14 Code, to read:

15 ~~10144.51.~~

16 10144.53. (a) Every health insurance policy issued, amended,
17 or renewed on or after January 1, ~~2012~~, 2013, that provides
18 hospital, medical, or surgical coverage shall provide coverage for
19 the screening, diagnosis, and treatment of ~~autism spectrum~~
20 ~~disorders~~ *pervasive developmental disorder or autism.*

21 (b) A health insurer shall not terminate coverage, or refuse to
22 deliver, execute, issue, amend, adjust, or renew coverage, to an
23 insured solely because the individual is diagnosed with, or has
24 received treatment for, ~~an autism spectrum disorder~~ *pervasive*
25 *developmental disorder or autism.*

26 (c) Coverage required to be provided under this section shall
27 extend to all medically necessary services and shall not be subject
28 to any limits regarding age, number of visits, or dollar amounts.
29 Coverage required to be provided under this section shall not be
30 subject to provisions relating to lifetime maximums, deductibles,
31 copayments, or coinsurance or other terms and conditions that are
32 less favorable to an insured than lifetime maximums, deductibles,
33 copayments, or coinsurance or other terms and conditions that
34 apply to physical illness generally under the policy.

35 (d) Coverage required to be provided under this section is a
36 health care service and a covered health care benefit for purposes
37 of this part. Coverage shall not be denied *on the basis of the*
38 *location of delivery of the treatment* or on the basis that the
39 treatment is habilitative, nonrestorative, educational, academic, or
40 custodial in nature.

(e) A health insurer may request, no more than once annually, a review of treatment provided to an insured for ~~autism spectrum disorders~~ *pervasive developmental disorder or autism*. The cost of obtaining the review shall be borne by the insurer. This subdivision does not apply to inpatient services.

(f) A health insurer shall establish and maintain an adequate network of ~~qualified autism~~ service providers with appropriate training and experience in ~~autism spectrum disorders~~ *pervasive developmental disorder or autism* to ensure that insureds have a choice of providers, and have timely access, continuity of care, and ready referral to all services required to be provided by this section consistent with Sections 10133.5 and 10133.55 and the regulations adopted pursuant thereto.

(g) (1) This section shall not be construed as reducing any obligation to provide services to an insured under an individualized family service plan, an individualized program plan, a prevention program plan, an individualized education program, or an individualized service plan.

(2) This section shall not be construed as limiting *or excluding* benefits that are otherwise available to an enrollee under a health insurance policy, *including, but not limited to, benefits that are required to be covered under Sections 10144.5 and 10144.51.*

(3) *This section shall not be construed to mean that the services required to be covered pursuant to this section are not required to be covered under other provisions of this chapter.*

(3)

(4) This section shall not be construed as affecting litigation that is pending on January 1, 2012.

(h) ~~On and after January 1, 2014, to the extent that this section requires health benefits to be provided that exceed the essential health benefits required to be provided under Section 1302(b) of the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) by qualified health plans offering those benefits in the California Health Benefit Exchange pursuant to Title 22 (commencing with Section 100500) of the Government Code, the specific benefits that exceed the federally required essential health benefits are not required to be provided when offered by a health insurance policy through the Exchange. However, those specific benefits are~~

1 ~~required to be provided if offered by a health insurance policy~~
2 ~~outside of the Exchange.~~

3 *(h) Notwithstanding subdivision (a), on and after January 1,*
4 *2014, this section does not require any benefits to be provided that*
5 *exceed the essential health benefits that all health plans will be*
6 *required by federal regulations to provide under Section 1302(b)*
7 *of the federal Patient Protection and Affordable Care Act (Public*
8 *Law 111-148), as amended by the federal Health Care and*
9 *Education Reconciliation Act of 2010 (Public Law 111-152).*

10 (i) As used in this section, the following terms shall have the
11 following meanings:

12 (1) ~~“Autism spectrum disorder” means a neurobiological~~
13 ~~condition that includes autistic disorder, Asperger’s disorder, Rett’s~~
14 ~~disorder, childhood disintegrative disorder, and pervasive~~
15 ~~developmental disorder not otherwise specified.~~

16 (2) ~~“Behavioral health treatment” means professional services~~
17 ~~and treatment programs, including behavioral intervention therapy,~~
18 ~~applied behavioral analysis, and other intensive behavioral~~
19 ~~programs, that have demonstrated efficacy to develop, maintain,~~
20 ~~or restore, to the maximum extent practicable, the functioning or~~
21 ~~quality of life of an individual and that have been demonstrated~~
22 ~~to treat the core symptoms associated with autism spectrum~~
23 ~~disorder.~~

24 (3) ~~“Behavioral intervention therapy” means the design,~~
25 ~~implementation, and evaluation of environmental modifications,~~
26 ~~using behavioral stimuli and consequences, to produce socially~~
27 ~~significant improvement in behaviors, including the use of direct~~
28 ~~observation, measurement, and functional analyses of the~~
29 ~~relationship between environment and behavior.~~

30 (4)
31 (1) ~~“Diagnosis of autism spectrum disorders”~~ *pervasive*
32 *developmental disorder or autism* means medically necessary
33 assessment, evaluations, or tests to diagnose whether an individual
34 has ~~one of the autism spectrum disorders~~ *pervasive developmental*
35 *disorder or autism.*

36 (5) ~~“Evidence-based research” means research that applies~~
37 ~~rigorous, systematic, and objective procedures to obtain valid~~
38 ~~knowledge relevant to autism spectrum disorders.~~

39 (2) *“Pervasive developmental disorder or autism” shall have*
40 *the same meaning and interpretation as used in Section 1374.72.*

1 ~~(6)~~

2 (3) “Pharmacy care” means medications prescribed by a licensed
3 physician and surgeon or other appropriately licensed or certified
4 provider and any health-related services deemed medically
5 necessary to determine the need or effectiveness of the medications.

6 ~~(7)~~

7 (4) “Psychiatric care” means direct or consultative psychiatric
8 services provided by a psychiatrist ~~or any other appropriately~~
9 ~~licensed or certified provider licensed in the state in which he or~~
10 ~~she practices.~~

11 ~~(8)~~

12 (5) “Psychological care” means direct or consultative
13 psychological services provided by a psychologist ~~or any other~~
14 ~~appropriately licensed or certified provider licensed in the state in~~
15 ~~which he or she practices.~~

16 ~~(9) “Qualified autism service provider” shall include any~~
17 ~~nationally or state licensed or certified person, entity, or group that~~
18 ~~designs, supervises, or provides treatment of autism spectrum~~
19 ~~disorders and the unlicensed personnel supervised by the licensed~~
20 ~~or certified person, entity, or group, provided the services are~~
21 ~~within the experience and scope of practice of the licensed or~~
22 ~~certified person, entity, or group. “Qualified autism service~~
23 ~~provider” shall also include any service provider that is vendorized~~
24 ~~by a regional center to provide those same services for autism~~
25 ~~spectrum disorders under Division 4.5 (commencing with Section~~
26 ~~4500) of the Welfare and Institutions Code or Title 14~~
27 ~~(commencing with Section 95000) of the Government Code and~~
28 ~~the unlicensed personnel supervised by that provider, or a State~~
29 ~~Department of Education nonpublic, nonsectarian agency as~~
30 ~~defined in Section 56035 of the Education Code approved to~~
31 ~~provide those same services for autism spectrum disorders and the~~
32 ~~unlicensed personnel supervised by that agency. A qualified autism~~
33 ~~service provider shall ensure criminal background screening and~~
34 ~~fingerprinting, and adequate training and supervision of all~~
35 ~~personnel utilized to implement services. Any national license or~~
36 ~~certification recognized by this section shall be accredited by the~~
37 ~~National Commission for Certifying Agencies (NCCA).~~

38 ~~(10)~~

39 (6) “Therapeutic care” means services provided by a licensed
40 or certified speech therapists *therapist, an occupational therapists*

1 *therapist, or a physical therapists or any other appropriately*
2 *licensed or certified provider therapist.*

3 ~~(H)~~

4 (7) “Treatment for ~~autism spectrum disorders~~ *pervasive*
5 *developmental disorder or autism*” means all of the following
6 care, including necessary equipment, *that develops, maintains, or*
7 *restores to the maximum extent practicable the functioning or*
8 *quality of life of an individual with pervasive developmental*
9 *disorder or autism and is prescribed or ordered for an individual*
10 *diagnosed with one of the autism spectrum disorders pervasive*
11 *developmental disorder or autism* by a licensed physician and
12 surgeon or a licensed psychologist ~~or any other appropriately~~
13 ~~licensed or certified provider~~ who determines the care to be
14 medically necessary:

15 ~~(A) Behavioral health treatment.~~

16 ~~(B)~~

17 (A) Pharmacy care, *if the policy includes coverage for*
18 *prescription drugs.*

19 ~~(C)~~

20 (B) Psychiatric care.

21 ~~(D)~~

22 (C) Psychological care.

23 ~~(E)~~

24 (D) Therapeutic care.

25 ~~(F) Any care for individuals with autism spectrum disorders~~
26 ~~that is demonstrated, based upon best practices or evidence-based~~
27 ~~research, to be medically necessary.~~

28 (8) “*Treatment for pervasive developmental disorder or autism*”
29 *does not include behavioral health treatment, as defined in Section*
30 *10144.51.*

31 (j) This section, with the exception of subdivision (b), shall not
32 apply to dental-only or vision-only health insurance policies.

33 SEC. 3. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section 17556 of
39 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

O